

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2862 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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GUJARAT AGRO INDUSTRIES KARMACHARI MANDAL & ORS.

Versus

GUJARAT AGRO INDUSTRIES CORPORATION LIMITED & ORS.

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Appearance:

MR HK RATHOD for Petitioners  
MS PJ DAWAWALA for MR KN RAVAL for Respondents  
No.1, 2  
MR HL JANI for Respondent No. 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/04/97

ORAL JUDGEMENT

1. This Special Civil Application under Article 226 of the Constitution of India is directed by the petitioners against the respondents and prayer has been made for quashing and setting aside of the notification of the State Government dated 4th February, 1992 and

office orders issued by the Corporation dated 20th March, 1992 and 9th April, 1992.

2. The dispute pertains to the revised pay scales of the post of Assistant, Stenographer Gr.II and Sales Representative. The pay scales of these posts in the Corporation were Rs.425-800 and Rs.500-900 which were revised to Rs.1400-2600 and Rs.1640-2900. The State of Gujarat under its notification dated 20th March, 1991 further revised the pay scales of Rs.425-800 and Rs.500-900 to Rs.1640-2900 and Rs.1740-3000 respectively. This notification of the Government has been accepted by the Corporation and under the order dated 21st June, 1991, the holders of these posts were given the benefits of those pay scales with effect from 1-1-1986. That order was fully implemented under the order dated 1-11-1991. The dispute has arisen when the State Government has issued another notification in respect of the employees working in the Public Enterprises, which includes the Corporation herein, for the post of Assistant, Stenographer Gr.II etc. dated 4th February, 1992 wherein it has been decided that the notification dated 20th March, 1991 is not applicable to the post of Assistants and Stenographers Gr.II etc. working in the Public undertakings and therefore, if any revision has been made in response to the said notification, are required to be set aside and whatever amount has been paid to the concerned employees are required to be recovered from the concerned employees. In response to the said notification of the Government of Gujarat, the Corporation has issued an office order dated 20th March, 1992 and whatever revision was accepted in the office order dated 20th June, 1991 was sought to be taken back and recovery was sought to be made of the amount paid.

3. Under the order dated 9-4-1992 the Corporation cancelled its earlier order dated 21st June, 1991 and for the post of Assistant, Stenographer Gr.II and Sales Representative whatever salary was available to them in July, 1991, that basic pay should have to be considered in the old revised scale and whatever arrears has been paid to these workmen the same has to be recovered from them. Hence, this Special Civil Application.

4. This Court has protected the petitioners against the recovery of the amount paid to them in pursuance of the earlier order of the Corporation dated 21st June, 1991. The respondents have not filed any reply to this Special Civil Application so whatever averments made therein stands uncontroverted.

5. One of the contentions raised by the learned counsel for the petitioners is that the State Government has made the order dated 4th February, 1992 without giving any opportunity of hearing to the affected persons. Similarly, the Corporation has blindly acted upon the said order and passed the orders dated 20th March, 1992 and 9th April, 1992 whereunder the benefits of the revised pay scales given to the employees were taken away without hearing them.

6. The counsel for the respondent does not dispute that these orders have been passed without giving any notice or opportunity of hearing to the petitioners. The employees of the category of Assistant, Stenographer Gr.II and Sales Representative were given the benefit of the Government notification dated 20th March, 1991 and the revised pay scale have been given to them. The arrears of the fixation has also been paid. So those class of employees were getting the revised pay scales and in case the Government decides to take away those benefits from the said class of employees then the basic principles of natural justice have to be followed by it. So far as the Corporation is concerned, it has only passed the orders in pursuance of the Government notification dated 4th February, 1992, and as such, the complaint against it may not be tenable. Earlier also it has acted on the Government notification dated 20th March, 1991 and the benefits of the second revision has been given to the class of the employees aforesaid. It is not the case that the Government was not aware of or known of the fact that in pursuance of the earlier order dated 20th March, 1991, the Corporation has extended the benefit of the revised pay scales to its employees of that category. If the order dated 4th February, 1992 passed the Government ensues the civil consequences, then the principles of natural justice should have been followed. It is a case of reduction of the emoluments. In view of this fact, before passing the order dated 4th February, 1992, the employees of the Corporation, affected thereby, should have been given an opportunity of hearing, which precisely has not been done in the present case.

7. In the result, this Special Civil Application succeeds in part. Though the order dated 4th February, 1992 and the consequential orders of the Government and the consequential orders passed by the Corporation are not quashed and set aside, but it is hereby ordered that the State of Gujarat in the Department of Finance will give an opportunity of hearing to the petitioner by affording post decision hearing. In case after hearing the petitioners, it decides to recall the order dated 4th

February, 1992 then the petitioners shall be entitled for all the consequential benefits, but in case, it decides not to recall that order then a reasoned order may be passed and a copy of the same may be made available to the petitioners. It shall be open to the petitioner No.1 to raise an industrial dispute. The petitioner No.1 is a union of the employees and for the redressal of the grievance of the nature made in this Special Civil Application, the only redressal forum available to it was to raise an industrial dispute. This Special Civil Application stands allowed to the aforesaid extent. Rule is made absolute to the aforesaid extent with no order as to costs. Till the matter is decided by Government, the interim relief shall continue.

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